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SIPDIS

SENSITIVE

STATE FOR EAP/MTS, EB/TPP
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E.O. 12958: N/A

TAGS: [ETRD](#) [ECON](#) [RP](#)

SUBJECT: POWERFUL LOBBY AND QUESTIONABLE LOBBY BACK
POSSIBLE RESTRICTIONS ON MILK FORMULA

REF: A) STATE 220695

SENSITIVE BUT UNCLASSIFIED - NOT FOR INTERNET DISTRIBUTION -
PROTECT ACCORDINGLY

SUMMARY

1. (SBU) Econ Counselor met with Department of Health Undersecretary Padilla on December 12 to urge GRP to consult fully with industry representatives before signing the Revised Implementing Rules and Regulations (IRRs) of the Philippines "Milk Code" into law. Padilla provided a copy of the latest draft IRRs, noting that several controversial provisions had already been removed. Unable to cite supporting data, Padilla contended that the IRRs are needed to reverse supposedly declining breastfeeding rates. He further claimed that this trend contributed to high child mortality rates in the Philippines. Industry representatives have countered that milk formula use remains quite low in the Philippines. Industry is working with the GRP to clarify the issues, but the influential breastfeeding lobby has created a great deal of momentum, which could push the Revised IRRs into law before they are fully understood by both sides. Padilla agreed to place a temporary hold on the IRRs, but said that the IRRs might be signed by the Secretary of Health before early February. END SUMMARY

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DOH PRESSURED BY LOBBYISTS AND QUESTIONABLE DATA

3. (SBU) Econ Counselor met with Undersecretary of Health Alex Padilla on December 12 and underscored the importance of consulting with industry representatives on the draft Revised Implementing Rules and Regulations (IRRs) for Executive Order 51 (EO 51) before signing them into law. Padilla said that DOH "really understands the industry's concerns" and that discussions with all parties have been ongoing for several months. He noted that DOH held a one-day public forum in August or September, which was attended by 500 people representing industry, government and non-governmental organizations. Padilla added that another public forum would be unproductive since both sides of the debate are fixed in their positions, and the DOH is already aware of both views. Padilla agreed to raise Embassy concerns with the Secretary of Health.

4. (SBU) Padilla provided us with an updated draft of the IRRs. He pointed out that the prohibition on using brand names and company logos has been removed for milk replacement products for use with infants over three years of age. DOH also removed a earlier requirement for prescriptions for infant formula products. However, industry still has objections to the IRRs, which are detailed below.

5. (SBU) The supposed intention behind the draft Revised IRRs is the encouragement and promotion of breastfeeding and its health benefits. Without citing any data, Padilla went on to make a number of observations and conclusions to support the draft IRRs. Since the enactment of EO 51 in 1987, according to Padilla, breastfeeding rates in the Philippines have declined significantly. He said that 16 percent of mothers now exclusively breastfeed their infants up to six months of age. He argued that during this period of decline in breastfeeding, infant formula sales have increased dramatically. Padilla added that the Philippines has a high mortality rate for children under five years of age and that diarrhea is a significant cause of death for this group. He singled out infant formula, as a "major cause of diarrhea" or a significant contributing factor. Padilla could not identify studies that support these statements but promised to provide the Embassy with additional information and data. (Note: Poor water filtration is a more likely cause of diarrhea. End Note.)

16. (SBU) The IRRs are in the final clearance process in the DOH Executive Committee, where they have been under discussion for the last three weeks. The final draft is completely at the discretion of the Executive Committee. Once approved, it will move forward to the Secretary of Health who has final authority and may reject, approve or modify. Padilla added that once signed, an announcement must be published in the local press two weeks before the IRRs take effect. He said that it was his understanding that the DOH Secretary would likely sign the IRRs by the end of January or early February.

17. (SBU) The Department of Health is under pressure by an influential breastfeeding lobby group, headed by 81-year old Larry Henares, special assistant to the President. According to Padilla, Henares is extremely vocal on the issue and has made this campaign his final objective before retiring. Padilla showed Embassy hundreds of signed petitions that Henares has collected from various individuals and entities advocating the implementation of the IRRs. He has presented these neatly bound volumes to Congress.

INDUSTRY SAYS DATA IS WRONG ON FORMULA

18. (SBU) A representative of Abbot Laboratories and of the Pharmaceutical and Healthcare Association of the Philippines (PHAP) spoke with U/S Padilla on the phone on December 13 and will meet with him on December 15. Industry remains opposed to the IRRs for the following reasons:

- A) Many provisions of the draft IRRs exceed the original scope of the law.
- B) Certain provisions seek to prohibit rather than regulate, which is unconstitutional.
- C) Certain provisions infringe on intellectual property rights (Note: This may no longer be a concern since the provision prohibiting promotion of brand names has been removed).
- D) The draft IRRs define "infants" as three years of age or less, which exceeds international standards.
- E) The IRRs would ultimately harm the consumer by denying information. It will also damage the milk industry and negatively affect employment.

19. (SBU) PHAP did a quick analysis of infant formula use in the Philippines and found that the market penetration rate is only about nine percent, which reflects a low level of infant formula use. PHAP said that it is common practice in the Philippines, especially among the poor, to feed babies sweetened condensed milk or rice water. PHAP conveyed this information to U/S Padilla and will discuss it further with him in their December 15 meeting. (Note: In order to determine the rate of market penetration, PHAP took the annual birth rate and then increased that number by 50 percent in order to account for babies that would have already been six months of age at the start of the new year. They then estimated the amount of tonnage of infant formula needed if 100 percent of these babies were fed exclusively on infant formula. They took this figure and compared it to the actual market, based on a Nielsen audit, and arrived at the nine percent penetration rate. End Note.)

110. (SBU) According to PHAP, Padilla said that if this information is correct, DOH could be "barking up the wrong tree." However, Padilla added that it is going to be difficult to stop the momentum and that the industry's only recourse is to have the President tell the Secretary of Health not to sign the law, perhaps to avoid controversy. PHAP is following up with a letter to the President.

COMMENTS

11. Industry is talking to the Department of Health and certain industry concerns have already been addressed. However, conflicting or nonexistent data indicate that there is still much to be clarified, including whether the assumptions upon which the IRRs are based are valid. The link between high diarrhea rates and formula feeding is not compelling; a strong correlation is unlikely. There seems to be a lot of misinformation circulating and poor dissemination of accurate health information. Industry continues to advocate that it supports breastfeeding as the best choice for infants under six months of age, but that for those mothers who cannot breastfeed, it is important to have a viable, nutritional alternative and adequate information on its proper use. U/S Padilla seemed responsive to USG concerns and continues to consult with industry, but the Department of Health could ultimately buckle under pressure from the influential breastfeeding lobby. Post will continue to raise this issue with appropriate officials.

